

REMARKS

Claims 1 and 2 stand rejected under 35 U.S.C. § 103(a) as being unpatentable by Yamaguchi et al. (U.S. Patent No. 5,513,201) (hereinafter "Yamaguchi") in view of Gao et al. (U.S. Patent No. 2003/0151820) (hereinafter "Gao"). Claims 3-9, while objected to as being dependent upon a rejected base claim, would be allowable if rewritten in independent form.

Applicants respectfully submit that the applied Gao reference and the Applicants' claimed invention were, at the time the invention was made, subject to an obligation of assignment to, and thus jointly owned by, the same assignee, Hamamatsu Photonics K.K. Further, the applied Gao reference qualifies as prior art only under 35 U.S.C. § 102(e) because a Verified Translation of the instant application's Japanese priority document no. 2002-253852, which was filed in Japan on August 30, 2002, was previously filed in this application on February 21, 2008. More particularly, as a result, Gao would not apply as prior art under 35 U.S.C. § 102(a) in this application.

Accordingly, the applied Gao reference shall not preclude patentability of the Applicants' claimed invention in accordance with the provisions of 35 U.S.C. § 103(c). As all of the applied rejections rely on the disclosure of Gao, Applicants respectfully submit that all rejections should be withdrawn. Applicants respectfully assert that all pending claims are in condition for allowance.

The Examiner is thanked for the indication that claims 3-9, while objected to as being dependent upon a rejected base claim, would be allowable if rewritten in independent form. However, Applicants respectfully submit that dependent claims 3-9 are allowable at least because of their dependence from independent claim 1, and the reasons discussed previously. Withdrawal of the objection to dependent claims 3-9 is thus respectfully requested.

CONCLUSION

In view of the foregoing, Applicants submit that the pending claims are in condition for allowance, and respectfully request reconsideration and timely allowance of the pending claims. Should the Examiner feel that there are any issues outstanding after consideration of this response; the Examiner is invited to contact Applicants' undersigned representative to expedite prosecution. A favorable action is awaited.

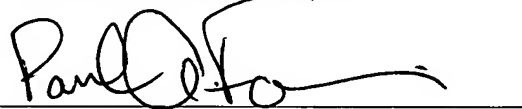
EXCEPT for issue fees payable under 37 C.F.R. § 1.18, the Commissioner is hereby authorized by this paper to charge any additional fees during the entire pendency of this application including fees due under 37 C.F.R. § 1.16 and 1.17 which may be required, including any required extension of time fees, or credit any overpayment to Deposit Account No. 50-0573. This paragraph is intended to be a **CONSTRUCTIVE PETITION FOR EXTENSION OF TIME** in accordance with 37 C.F.R. § 1.136(a)(3).

Respectfully submitted,

DRINKER BIDDLE & REATH LLP

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By:



Paul A. Fournier

Reg. No. 41,023

Customer No. 055694

DRINKER BIDDLE & REATH LLP

1500 K Street, N.W., Suite 1100

Washington, DC 20005-1209

Tel.: (202) 842-8800

Fax: (202) 842-8465